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## **REZONING APPLICATION ANALYSIS**

**ZONING CASE #:** Z2013-31      **LEGISTAR #:** 20131296

**PROPERTY OWNERS:** Alberto Chamorro  
4802 Chelsea Way  
Acworth, GA 30102

**APPLICANT:** same as above

**PROPERTY ADDRESS:** 107-109 Gramling Street

**PARCEL DESCRIPTION:** Land Lot 02180, District 17, Parcel 0260

**AREA:** 0.28 acs.      **COUNCIL WARD:** 3

**EXISTING ZONING:** R-4 (Single Family Residential 4 units/acre)

**REQUEST:** R-4 (Single Family Residential 4 units/acre)  
w/additional use as duplex

**FUTURE LAND USE**

**RECOMMENDATION:** MXD (Mixed Use Development)

**REASON FOR REQUEST:** The applicant is requesting the rezoning of this property from R-4 to R-4 with an additional use so the property may be reestablished as a duplex.

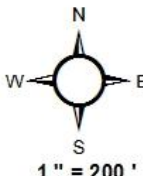

**PLANNING COMMISSION HEARING:** Tuesday, December 3, 2013 – 6:00 p.m.

**CITY COUNCIL HEARING:** Wednesday, December 11, 2013 – 7:00 p.m.

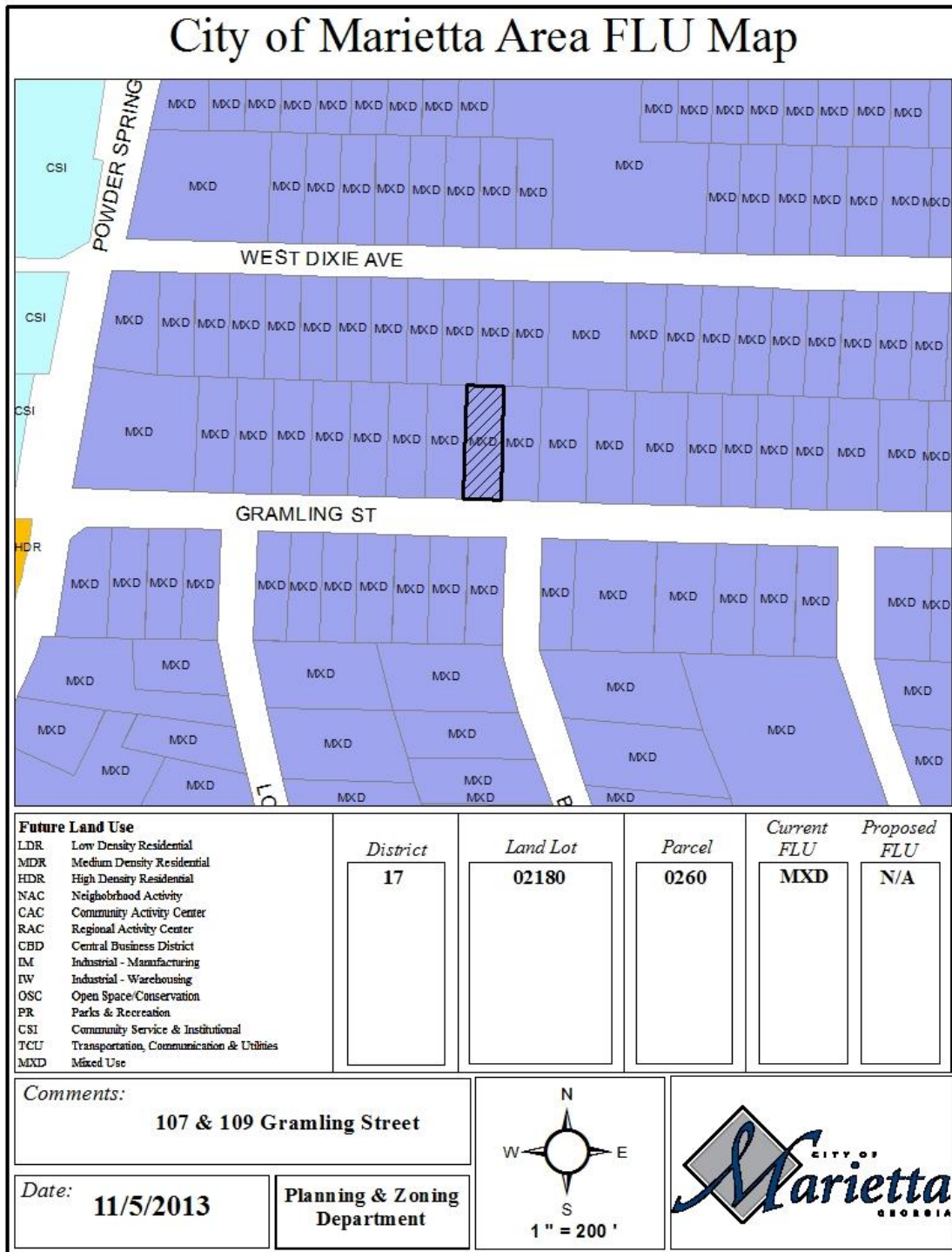
# MAP

# City of Marietta Area Zoning Map



<b>Zoning</b> <b>SINGLE FAMILY RESIDENTIAL</b> R-1 One Unit/Acre R-2 Two Unit/Acre R-3 Three Unit/Acre R-4 Four Unit/Acre <b>ATTACHED FAMILY RESIDENTIAL</b> RA-4 Four Unit/Acre RA-6 Six Unit/Acre RA-8 Eight Unit/Acre PRD(SC) Planned Residential Dev. MHP Middle Home Park <b>MULTI FAMILY RESIDENTIAL</b> RM-48 Eight Unit/Acre RM-50 Ten Unit/Acre RM-32 Twelve Unit/Acre RHR Residential High Rise PRD(MF) Planned Residential Dev.	<b>COMMERCIAL</b> CNC Neighborhood Retail CRC Community Retail RRC Regional Retail CBD Central Business District PCD Planned Commercial Dev. MXD Mixed-Use Dev. OIT Office Institutional Trans. LRO Low-Rise Office OIO Office Institutional OS Office Services OHR Office High-Rise <b>INDUSTRIAL</b> LI Light Industrial HI Heavy Industrial PID Planned Industrial Dev.	<i>District</i> 17	<i>Land Lot</i> 02180	<i>Parcel</i> 0260	<i>Current Zoning</i> R-4	<i>Proposed Zoning</i> R-4 w/ additional use
<i>Comments:</i> 107 & 109 Gramling Street						
<i>Date:</i> 11/5/2013	Planning & Zoning Department					

## FLU MAP





## PICTURES OF PROPERTY



**Subject Property (front & right side view)**



**Subject Property (front & left side view)**

## STAFF ANALYSIS

### *Location Compatibility*

Mr. Alberto Chamorro is requesting the property located at 107-109 Gramling Street be rezoned from R-4 (Single Family Residential – 4 units/ac) to R-4 (Single Family Residential – 4 units/ac) with additional use so the property may be legally reestablished as a duplex. The property contains a residential structure that was built as a duplex, and has been used as a duplex until it became vacant in 2009. Records indicate that Mr. Chamorro bought the property in April 2012, and obtained a building permit in April 2013. *(This permit should not have been approved at the time due to the length of time that it had remained vacant. Section 706.02 of the Zoning Ordinance regarding Nonconforming Uses states that once the property has been vacant for more than 6 months, a nonconforming use cannot be reestablished.)*

Building permits are only valid for six (6) months unless continued building activity is verified by an inspection. Mr. Chamorro's permit expired on October 16, 2013, as he had not requested any inspections or made contact with the permit office. At that time, he was told that the permit had expired, and that the nonconforming use status of the property had been lost. However, with this request, he would like to reestablish the use of the property as a duplex.

Properties to the north, east and west of the property are zoned R-4, and all adjacent properties are used as duplexes. To the south, properties along Bolan Street are zoned R-3 (Single Family Residential – 3 units/ac) and are single family residences.

### *Use Potential and Impacts*

The subject property is a duplex. Cobb County Tax records state it was built in 1943, and aerial photographs of the area show that the entire subdivision was completed by 1961. Research into zoning regulations indicates that the 1974 Zoning Ordinance included duplexes, along with single family residences, as permitted uses under the R-10 zoning classification. By the time the 1984 Zoning Ordinance was approved, duplexes were eliminated as a permitted use in R-10. So at that time, any duplexes that had already been built became nonconforming uses. In 1998, a new Zoning Ordinance was approved, and under the zoning classification system, R-10 became R-4, which is the category under which the property is zoned today.

Section 706, Nonconforming Uses, allows a use that is nonconforming to continue, except that it cannot be "Reestablished after discontinuance for a continuous period of 6 months or 18 months during any 3 year period". The intent of the nonconforming use clause in the Zoning Ordinance is to permit non-conformities to continue until they are removed, but not to encourage their survival. Marietta's code is similar to many other codes, including Cobb

County, in that “grandfathered” uses do not survive if disestablished for a period of time. Although some codes do allow more time for the uses to be discontinued before they expire completely.

All of the properties immediately adjacent to the subject property are also nonconforming duplexes. Further east, along Gramling Street and closer to Atlanta Street, there are no duplexes and all the residences are single family units.

In addition, there have been other properties in the City that have lost their nonconforming use status. In order to be occupied they have had to be renovated and converted physically to single family homes. These properties include:

- 253 McArthur Drive
- 269 McIntosh Avenue
- 450 Morningside Drive
- 447 Birney Street
- 233 Roosevelt Circle

The Future Land Use (FLU) of this parcel, as specified in the City’s Comprehensive Plan, is Mixed Use Development (MXD). The FLU serves as a guide for long-term growth and how development should occur over time and into the future. The purpose of a Mixed Use Development is to accommodate a planned development that includes both residential and non-residential uses in a pedestrian friendly environment. R-4 zoning is not compatible with the MXD Future Land Use, as this future land use designation anticipates redevelopment of the area. However, the R-4 zoning is compatible with the current development in the area.

### *Environmental Impacts*

Any proposed changes to the site should be minimal so there should be no additional environmental impacts caused by the proposed request. There is no indication of any wetlands, streams, or endangered species existing on the property.

### *Economic Functionality*

The Gramling/West Dixie/Hedges area was developed with a mix of duplexes and single family homes, probably during the 1940’s-1950’s, and while a few properties near Powder Springs Street and Atlanta Street have been changed to office uses, the majority of the properties have been used consistently as residences. Most of the duplexes are rental units, and many have deteriorated due to lack of maintenance. However, recent interest in renovating residences in this area indicates that the property is economically functional as currently zoned.

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## STAFF ANALYSIS CONTINUED

### *Infrastructure*

There is only one driveway off of Gramling Street that would appear to accommodate only one vehicle. Current regulations require 2 parking spaces per unit and the Zoning Ordinance prohibits parking on an unpaved surface. The driveway would need to be improved in order to accommodate 2 vehicles since on-street parking in the City is prohibited. In addition, if this request is approved, a second driveway would have to be provided that would also accommodate 2 vehicles for the second residential unit.

### *History of Property*

There is no history of any variances, Special Land Use Permits, or past rezonings for this property.

### *Other Issues*

Although the circumstances are slightly different, a property across Gramling Street – at 120-122 Gramling Street – is also vacant at this time, and is seeking to reestablish the duplex unit through the rezoning process.



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## ANALYSIS & CONCLUSION

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The subject property is a duplex. Cobb County Tax records state it was built in 1943, and aerial photographs of the area show that the entire subdivision was completed by 1961. Research into zoning regulations indicates that at some time between 1974 and 1984, a change was made to eliminate duplexes as a permitted use in the R-10 zoning category. As such, after that time, any duplexes that had already been built became nonconforming uses. (R-10 was changed to R-4 in the 1998 Zoning Ordinance).

Section 706, Nonconforming Uses, allows a use that is nonconforming to continue, except that it cannot be "Reestablished after discontinuance for a continuous period of 6 months or 18 months during any 3 year period". The stated intent of the nonconforming use clause in the Zoning Ordinance is to permit non-conformities to continue until they are removed, but not to encourage their survival.

The Future Land Use (FLU) of this parcel, as specified in the City's Comprehensive Plan, is Mixed Use Development (MXD). The FLU serves as a guide for long-term growth and how development should occur over time and into the future. The purpose of a Mixed Use Development is to accommodate a planned development that includes both residential and non-residential uses in a pedestrian friendly environment. R-4 zoning is not compatible with the MXD Future Land Use, as this future land use designation anticipates redevelopment of the area. However, the R-4 zoning is compatible with the current development in the area.

**Prepared by:** \_\_\_\_\_

**Approved by:** \_\_\_\_\_





## DATA APPENDIX

### ***CITY OF MARIETTA - WATER***

Is a water line adjacent to the property?	Yes
If not, how far is the closest water line?	n/a
Size of the water line?	6-inch
Capacity of the water line?	Flow test required
Approximate water usage by proposed use?	Not provided

### ***CITY OF MARIETTA - SEWER***

Is a sewer line adjacent to the property?	Yes
If not, how far is the closest sewer line?	n/a
Size of the sewer line?	8-inch
Capacity of the sewer line?	Available
Estimated waste generated by proposed development?	A.D.F.      Peak Not provided
Treatment Plant Name?	Cobb County
Treatment Plant Capacity?	Cobb County
Future Plant Availability?	Cobb County



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## ***DRAINAGE AND ENVIRONMENTAL CONCERNS***

**Public Works – Engineering has no comments on these rezoning issues.**

## ***EMERGENCY SERVICES***

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Nearest city or county fire station from the development? Station 54

Distance of the nearest station? .73 miles

Most likely station for 1<sup>st</sup> response? Station 54

Service burdens at the nearest city fire station (under, at, or above capacity)? None

## ***MARIETTA POWER - ELECTRICAL***

Does Marietta Power serve this site? Yes   X   No           

If not, can this site be served? Yes            No           

What special conditions would be involved in serving this site?

Additional comments:



## ***MARIETTA CITY SCHOOLS – IMPACT ASSESSMENT:***

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### **MARIETTA CITY SCHOOLS**

Elementary School System Servicing Development: Hickory Hill Elementary

Middle School Servicing Development: Marietta Middle School

High School Servicing Development: Marietta High School

Capacity at Elementary School: 400 - 500

Capacity at Middle School: 1300 - 1400

Capacity at Marietta Sixth Grade Academy: 800 - 900

Capacity at High School: 2500 - 2600

Current enrollment of Elementary School: 485

Current enrollment of Middle School: 1280

Current enrollment of High School: 2250

Number of students generated by present development: None

Number of students projected from the proposed development: 2

New schools pending to serve this area: None

### **Comments:**